



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 7944-99

17 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 17 June 1982 for four years at age 22. The record reflects that you were advanced to AZAN (E-3) and served without incident until 10 August 1983 when you were convicted by special court-martial of conspiracy to distribute 1.01 grams of marijuana, failure to obey a lawful regulation by failing to salute a captain, and possession and distribution of marijuana. You were sentenced to a reduction in rate to AZAA (E-2) and a detention of your pay.

On 15 August 1983 you were notified that you were being processed for discharge under other than honorable conditions by reason of misconduct due to drug abuse as evidenced by illegal use and transfer of a controlled substance. You were advised of your procedural rights, declined to consult with counsel, and waived your right to be represented by counsel and to present your case

to an administrative discharge board (ADB). Thereafter, a medical officer evaluation determined that you were not dependent on drugs.

On 6 September 1983, the commanding officer (CO) recommended discharge under other than honorable conditions by reason of misconduct due to drug abuse and trafficking. In his recommendation, the CO stated that a command assist urinalysis was originally taken as a result of an incident in which an aircraft was severely damaged. Two later urinalyses also tested positive.

On 29 September 1983, the Chief of Naval Personnel (CNP) recommended to the Assistant Secretary of the Navy (ASN) for Manpower & Reserve Affairs that you be separated under other than honorable conditions in view of the special court-martial conviction for distribution and possession of marijuana. The ASN approved the recommendation and, on 13 October 1983, CNP directed discharge under other than honorable conditions by reason of misconduct due to drug trafficking. You were so discharged on 21 October 1983.

In its review of your application the Board conducted a careful search of your records for any mitigating factors which might warrant a recharacterization of your discharge or a change in the reason for discharge shown on your DD Form 214. However, no justification for such a change could be found. The Board noted that at 22 years of age, you were older than the average recruit. You were a high school graduate and your test scores showed you were of average intelligence. The Board concluded that you possessed the necessary skills required to successfully complete your enlistment. The Board noted your letter explaining the circumstances which led to your court-martial and the contention to the effect that you have a co-dependency disorder which will not allow you to displease others. The Board concluded that the letter of explanation and contention were insufficient to warrant recharacterization of your discharge given your conviction by special court-martial of use and distribution of marijuana. The Board noted the aggravating factor that you waived your right to an ADB the one opportunity you had to show why you should be retained or discharged under honorable conditions. Your contention of a co-dependency disorder is of no merit since such a disorder does not excuse an individual's misconduct or render him not responsible for his actions. The fact that the reason for discharge shown on your DD Form 214 may negatively impact your future endeavors does not provide a valid reason for changing or removing it. The Board concluded that the character and reason for discharge were proper and no changes are warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director